

REMARKS/ARGUMENTS

This Amendment and Response to the Office Action is submitted in response to the Office Action mailed September 7, 2004. Claims 1-5, 12-20, and 29-33 are pending in the above-referenced application and claims 6-11, 21-28, and 34 have been withdrawn. In the Office Action, the Examiner objected to the drawings and rejected claims 2, 4, 16-20, and 29-33 under 35 U.S.C. § 112, second paragraph. The Examiner rejected claims 1-5, 12, 15, 18-20, and 33 under 35 U.S.C. § 102(b) in view of Enomoto (U.S. Patent No. 6,340,200) and in view of Frost (U.S. Patent No. 5,564,744). The Examiner also rejected claims 13-14, 16, 29 and 31-32 under 35 U.S.C. § 103(a) in view of Enomoto and in view Frost and Mimura (U.S. Patent No. 5,575,500). The Examiner indicated claims 17 and 30 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph and rewritten in independent form.

By this paper, claims 1, 2, 4, and 16-19 have been amended. Claim 5 has been canceled. In view of these amendments and the following remarks, immediate allowance of claims 1-4, 12-20, and 29-33 is respectfully requested.

OBJECTION OF DRAWINGS AND INTERPRETATION OF CLAIMS 17 AND 30

The Examiner objected to the drawings for failing to comply with 37 CFR 1.84(p)(5), which has been corrected by amending the specification to provide support for reference numeral 80.

REJECTION OF CLAIMS 2, 4, 16-20, AND 29-33 UNDER 35 U.S.C. §112, SECOND PARAGRAPH

The Examiner rejected claims 2, 4, 16-20, and 29-33 under 35 U.S.C. § 112, second paragraph for indefiniteness. Applicants respectfully assert that amended claims 2, 4, 16-20, and 29-33 distinctly claim the invention. Support for the amendments of claims 2, 4, and 19 may be found on page 10, lines 14-19, page 12, lines 5-10, and page 21, lines 8-10. Therefore, Applicants respectfully request that this rejection be withdrawn.

REJECTION OF CLAIMS 1-5, 12, AND 18-20 UNDER 35 U.S.C. §102(b) BY ENOMOTO

In the Office Action, the Examiner rejected claims 1-5, 12, and 18-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,340,200 to Enomoto et al. (hereinafter, “Enomoto”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (Aug. 2001) (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Claims 1-5 and 12

Independent claim 1 has been amended to include the element “a locking ridge extending from the anchor plate at a non-perpendicular angle to the anchor plate.” Claim 5 has been canceled. Because claims 2-4 and 12 depend from claim 1, claims 2-4 and 12 also include this element. Support for this element can be found on page 12, lines 1-12, page 12, 17-page 13, line 5, and Figures 2A-2D.

Enomoto is directed toward “a front pillar impact absorbing structure in which an impact applied to the windshield of an automotive vehicle is designed to be absorbed by a front pillar.” Enomoto col. 1, lines 7-10. More specifically, Enomoto discloses “A rear face of a plastically deformable member 27 which is formed of a metal plate so as to have a C-shaped cross section is welded to a front face of the flange portion 15a of the pillar outer15 in such a manner that an opening 27 a of the C-shaped cross section confronts the erect wall portion 15c.” Enomoto col. 3, lines 38-44. The foot region 27a and the locking ridge 27 of Enomoto as labelled by the Examiner extend perpendicularly from the translating arm 27 and the anchor plate 27

respectively. Enomoto Figure 2, 3, and 7. Enomoto does not disclose, teach, or suggest that the locking ridge extend from the anchor plate at a non-perpendicular angle to the anchor plate.

Independent claim 1 has also been amended to include the element “the bracket ... having an asymmetrical cross-section.” Support for this element can be found in Figures 2A-2D. Conversely, the C-shaped cross sectional front pillar impact absorbing structure of Enomoto is symmetric as shown in Figure 2, 3, and 7. Enomoto does not disclose, teach, or suggest that the C-shaped cross sectional front pillar impact absorbing structure have an asymmetrical cross section.

The asymmetrical “brackets of the invention are able to generally assume a stabilized supporting configuration when a force is [initially] applied to them.” Application page 4, lines 8-9. The supporting configuration provides the advantage of being capable of receiving and dissipating additional force. Id. at page 9, lines 20-22. Another advantage of an asymmetrical bracket is that depending on the configuration, the invention may be more “suitable for use in situations anticipating a lesser force.” Id. at page 13, lines 9-11. Additionally, asymmetry of the bracket may “allow the bracket to redirect force, have multiple potential (alternative or sequential) supportive configurations, or to tune the characteristics of the bracket when the bracket is placed in its supportive configuration.” Id. at page 14, lines 21-23.

Therefore, Enomoto does not disclose, suggest, or teach each and every element of the claims. Thus, Enomoto does not anticipate claims 1-4 and 12. Applicants respectfully request withdrawal of this rejection.

Claims 18-20

Independent claim 18 has been amended to include the element “a foot region extending from a terminal end of the translating arm at a non-perpendicular angle to the translating arm.” Support for this amendment may be found on page 18, lines 13-14 and Figures 2A-2D. Because claims 19 and 20 depend from claim 18, claims 19 and 20 also include these elements.

Enomoto does not suggest or teach this element. Enomoto only teaches “plastically deformable members ... [that] are press collapsed in the longitudinal direction of the vehicle body.” Enomoto col. 1, lines 61 through col. 2, lines 3, col. 4, lines 4-15, and col. 5, lines 14-25. Enomoto does not teach or suggest a foot region extending from a terminal end of the translating

arm at a non-perpendicular angle to the translating arm. Instead, as is clear from Figures 2, 3, and 7, Enomoto only discloses a C-shaped cross section, where the foot region and the locking ridge extend perpendicularly from the translating arm and the anchor plate respectively. Because, Enomoto does not disclose, teach, or suggest that the locking ridge extend from the anchor plate at a non-perpendicular angle to the anchor plate, Enomoto does not anticipate claims 18-20 and Applicants respectfully request withdrawal of this rejection.

REJECTION OF CLAIMS 1, 15, 18, AND 33 UNDER 35 U.S.C. §102(b) BY FROST

In the Office Action, the Examiner rejected claims 1, 15, 18, and 33 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,564,744 to Frost (hereinafter “Frost”). As noted above, M.P.E.P. § 2131 provides that a “claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Applicant’s respectfully assert that Frost does not disclose each and every element as set forth in amended claims 1, 15, 18, and 33 and therefore, does not anticipate claims 1, 15, 18, and 33. As noted above, M.P.E.P. § 2131 provides “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Claims 1 and 15

As noted above, independent claim 1 has been amended to include the element “a locking ridge extending from the anchor plate at a non-perpendicular angle to the anchor plate.” Frost is directed toward “trim assembly for a vehicle providing energy absorption between a structural member and a trim cover in which the energy absorbing member has a free end that coils during elastic deformation of the energy absorbing member to absorb energy by winding action.” Frost col. 2, lines 44-48. However, nowhere in Frost is a locking ridge disclosed, suggested, or taught. Therefore, Frost does not disclose, teach, or suggest each and every element of amended claims 1 and 15. Thus, Frost does not anticipate claims 1 and 15. Applicants respectfully request withdrawal of this rejection.

Claims 18 and 33

Independent claim 18 has been amended to include the element “the extension arm is straight.” Conversely, Frost is directed toward an “energy absorbing member [that] has a free end that coils during elastic deformation of the energy absorbing member to absorb energy by winding action.” Frost col. 2, lines 44-48. As is clear from Figures 6-9, the portion of Frost noted by the Examiner as being the extension arm 58 is not straight; instead the extension arm 58 of Frost is curved from the anchor plate 55 and 56 to the flex region 62. In fact, nowhere in Frost is an extension arm being straight taught or suggested. Therefore, Frost does not anticipate claims 18 and 33 and Applicants respectfully request withdrawal of this rejection.

REJECTION OF CLAIMS 13-14 AND 31-32 UNDER 35 U.S.C. §103(a) OVER ENOMOTO

The Examiner rejected claims 13-14 and 31-32 under 35 U.S.C. §103(a) as being unpatentable over Enomoto. To establish *prima facie* obviousness of a claimed invention, all the claim elements must be taught or suggested by the prior art. *MPEP* §2143.03. Applicants respectfully assert that the Examiner has not established a *prima facie* case of obviousness. A *prima facie* case of obviousness is established only if the Examiner shows that (1) there is some teaching, suggestion, or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there is a reasonable expectation of success; and (3) the prior art teaches or suggests all of the claim elements. *See id.*

As noted above, Enomoto does not teach or suggest all of the claim elements. Specifically, Enomoto does not teach or suggest a locking ridge extending from the anchor plate at a non-perpendicular angle to the anchor plate, a bracket having an asymmetrical cross-section, or a foot region extending from a terminal end of the translating arm at a non-perpendicular angle to the translating arm. Therefore, Applicants respectfully assert that claims 13-14 and 31-32 are patentable over Enomoto and request the withdrawal of this rejection.

REJECTION OF CLAIMS 16 AND 29 UNDER 35 U.S.C. §103(a) OVER FROST & MIMURA

The Examiner rejected claims 16 and 29 under 35 U.S.C. §103(a) as being unpatentable over Frost in view of U.S. Patent No. 5,575,500 to Mimura et al. (hereinafter “Mimura”). As

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noted above, to establish prima facie obviousness of a claimed invention, all the claim elements must be taught or suggested by the prior art. *MPEP* §2143.03.

As noted above, Frost does not teach or suggest all of the claim elements. Specifically, Frost does not teach or suggest a locking ridge or an extension arm is straight. Mimura does not make up for the deficiencies of Frost. Applicants submit that nothing in Mimura teaches or suggests a locking ridge or an extension arm being straight. Moreover, in the Office Action, the Examiner did not assert that Mimura teaches or suggests these elements. Therefore, Applicants respectfully assert that claims 16 and 29 are patentable over Frost in view of Mimura and request the withdrawal of this rejection.

In consideration of the remarks presented above, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,


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Date: December 7, 2004

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